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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,611	08/22/2003	Guy Simon Dawson	37261P087	9810

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EXAMINER

LUONG, VINH

ART UNIT PAPER NUMBER

3682

DATE MAILED: 06/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/646,611	Applicant(s) DAWSON, GUY SIMON	
	Examiner Vinh T Luong	Art Unit 3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.


Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


Vinh T. Luong
Primary Examiner

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Attachment</u> |

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1. The drawings are objected to because the drawings do not comply with 37 CFR 1.84 for the reasons, *e.g.*, listed below:

- (a) The various parts in Fig. 1 should be connected by connecting lines and/or embraced by a bracket in order to show their relationship or their order of assembly; and

- (b) The cross section must be set out and drawn to show all of the materials as they are shown in the view from which the cross section was taken.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The listing of references in the specification (*e.g.*, pages 1 and 2) is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents,

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publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

3. The disclosure is objected to because of the following informalities: the specification is inconsistent with the drawings or *vice versa*. For example, page 9 of the specification describes that the button 15 is made of plastics material. However, the cross sectional view does not show plastics material by drawing symbols for draftsman. See MPEP 608.02. Appropriate correction is required.

4. Claims 1-18 are objected to because of the following informalities: no antecedent basis is seen for the terms, such as, "it" in claim 1 and "the profiled *portion*" in claim 11. Appropriate correction is required.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The terms, such as, "movable," "can be pivoted," and "accessible" in claim 1, and "engageable" in claims 8 and 17 are vague and indefinite in the sense that things which may be done are not required to be done, *e.g.*, in claim 1, the locking member is movable, but is not required structurally to be moved between the locking and release positions. See "crimpable" and "discardable" in *Mathis v. Hydro Air Industries*, 1 USPQ2d 1513, 1527 (D.C. Calif. 1986); "removable" in *In re Burke Inc.*, 22 USPQ2d 1368, 1372 (D.C.

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Calif. 1992) and “comparable” in *Ex parte Anderson*, 21 USPQ2d 1241, 1249 (Bd. Pat. App. & Inter. 1992).

It is unclear whether a confusing variety of terms, such as, “a locking portion” in claim 9, “a profiled position” in claim 10, and “the profiled portion” in claim 11 refer to the same or different things. See MPEP 608.01(o). Applicant is respectfully urged to identify each claimed element with reference to the drawings.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-18, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Harvey et al. (US Patent No. 6,450,063 B1).

Regarding claim 1, Harvey teaches a handle which includes a handle member 10 pivotally coupled to a base 20 and a locking mechanism which releasably locks the handle member 10 in a first position (Fig. 2) relative to the base 20, said first position (Fig. 2) corresponding to an in-use position of the handle member 10, the locking mechanism including a locking member 25 within the handle member 10, said locking member 10 being movable between a locking position (Fig. 2) where it performs a blocking action between the handle member 10 and the base 20 to prevent pivotal movement of the handle member 10 relative to the base 20 and a release position (Fig. 3) where said blocking action is removed, and the handle member 10 can be pivoted to a

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second position (Fig. 3), the locking member 25 being coupled to a push button 24 accessible at an exterior surface of the handle member 10.

Claim 1 and other claims below are anticipated by Harvey because each claimed element is “*read on*” or “*fully met*” by Harvey. It is well settled that anticipation law requires distinction be made between invention described or taught and invention claimed. It does not require that the reference “teach” what subject patent application teaches, it is only necessary that the claim under attack, as construed by the Court, “*read on*” something disclosed in the reference, i.e., all limitations of the claim are found in reference, or are “*fully met*” by it. *Kalman v. Kimberly Clark Corp.*, 218 USPQ 781, 789 (CAFC 1983).

Regarding claim 2, the push button 24 includes a head (see Attachment, Fig. 1) which is slidably located in a recess (Fig. 2, Att.) the handle member 10.

Regarding claim 3, the peripheral shape of the recess (Fig. 2, Att.) substantially corresponds to the peripheral shape of the button 24.

Regarding claim 4, the locking member 24 is biased into said locking position by a biasing mechanism 24. Note that Harvey’s push button, locking member, and biasing mechanism are integrally formed in the same manner as Applicant’s push button, locking member, and biasing mechanism.

Regarding claim 5, the biasing mechanism 24 includes a leaf spring 24.

Regarding claim 6, the leaf spring 24 is fixed to the locking member 25 because the leaf spring 24 is one-piece formed with the locking member 25 and has a distal end (at 26 in Fig. 1) engaging with a part of the handle member 10.

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Regarding claim 7, see a stop 25 (Fig. 2, Att.) to prevent movement of the locking member 25 under action of the biasing mechanism 24 from moving beyond the locking position (Fig. 2). *Ibid.*, col. 3, lines 7-25. Alternatively, see a stop 37 (Fig. 3) to prevent movement of the locking member 25 under action of the biasing mechanism 24 from moving beyond the locking position.

Regarding claim 8, the stop 25 is a lip 25 projecting from the locking member 25 and engageable with an engagement surface 30 of the handle member 10.

Regarding claim 9, the blocking action is created by the locking member 25 having a locking portion 25 which engages between a surface 27 of the pivot base 20 and a part 30 of the handle member 10 when the locking member 25 is in said locking position (Fig. 2).

Regarding claim 10, the locking member 25 includes a profiled portion 25 (Att.) which provides a clearance (at 23 in Fig. 3) between the locking portion 25 and the pivot base 20 when the locking member 25 is in the release position (Fig. 3).

Regarding claim 11, the profiled portion 25 includes a contact surface (Att.) which contacts a profiled surface 27, 28 of the pivot base 20 during movement of the handle between the first and second positions (Figs. 2 and 3).

Regarding claims 12, see regarding claim 2 above.

Regarding claim 13, the recess (Fig. 2, Att.) includes a contact surface 30 which is contacted by the head (Fig. 1, Att.) when the locking member 25 is in the release position.

Regarding claims 14-17, see regarding claims 4, 5, 7, and 8.

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Regarding claim 18, the lip 25 projects from the locking portion 25. The engagement surface 30 is formed by a wall (Att., Figs. 2 and 3) in the handle member 10. The wall (Att.) further forms a second engagement surface (Att.). The locking portion 25 of the locking member 25 is located between second engagement surface (Att.) and the pivot base 20 to create the blocking action.

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claim 1, as best understood, is further rejected under 35 U.S.C. 102(b) as being anticipated by Vetter (US Patent No. 5,560,082).

Vetter teaches a handle which includes a handle member 16 pivotally coupled to a base 50 and a locking mechanism which releasably locks the handle member 16 in a first position (Fig. 2) relative to the base 50, said first position (Fig. 2) corresponding to an in-use position of the handle member 16, the locking mechanism including a locking member 84 within the handle member 16, said locking member 84 being movable between a locking position (Fig. 2) where it performs a blocking action between the handle member 16 and the base 50 to prevent pivotal movement of the handle member 16 relative to the base 50 and a release position (Fig. 2) where said blocking action is removed, and the handle member 16 can be pivoted to a second position (Fig. 2), the locking member 84 being coupled to a push button 84 accessible at an exterior surface of the handle member 16.

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11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Lee (locking member 46), Delman (spring 50), and Barnes (locking member 18).

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 571-272-7109.

The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 571-272-7099. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

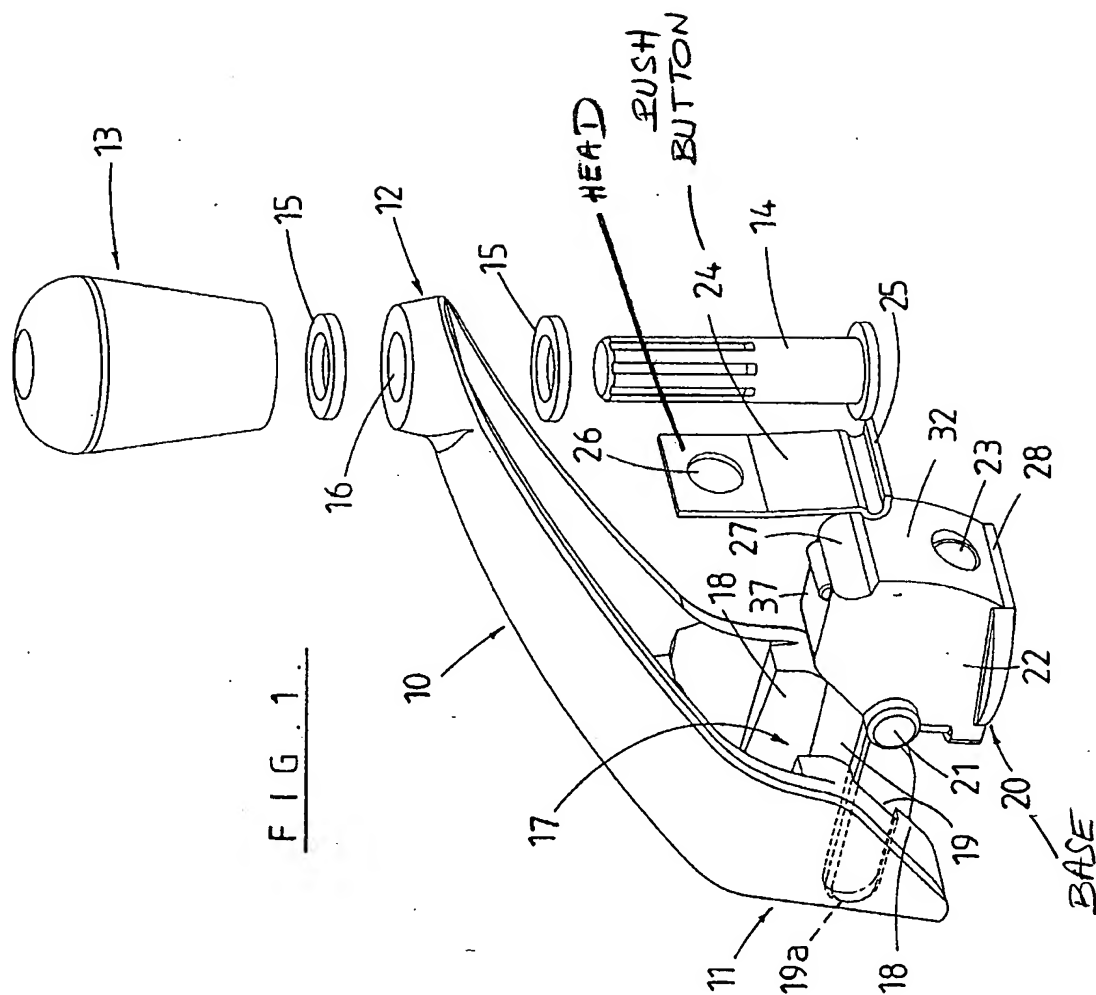
Luong

June 6, 2005

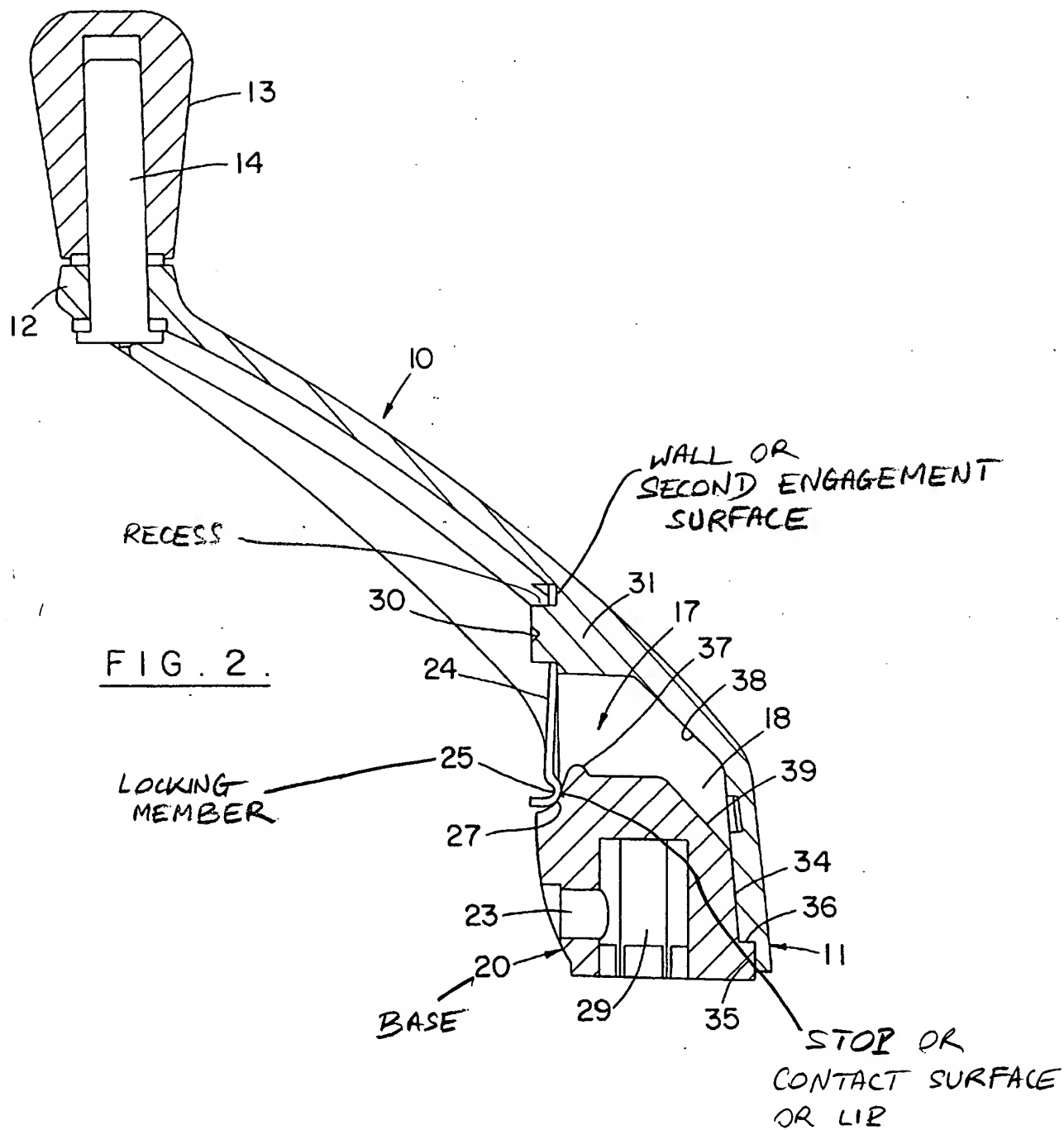


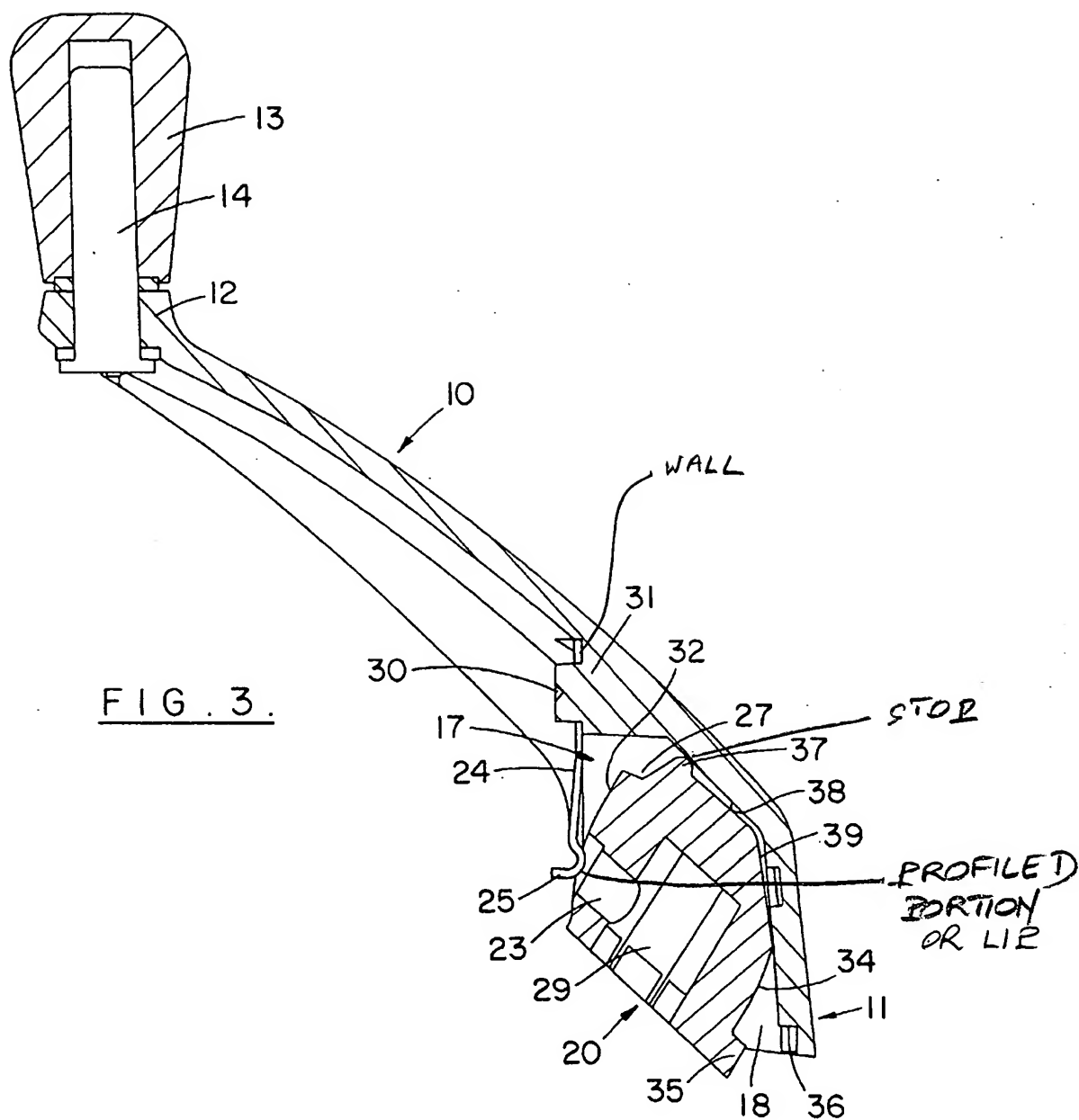
Vinh T. Luong
Primary Examiner

ATTACHMENT



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